

418 KAR 1:050. Procedures for acquisition of land.

RELATES TO: KRS 45.450, 146.550-146.570, 382.800-382.860

STATUTORY AUTHORITY: KRS 146.560(2), 146.565

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.560(2) requires the board to promulgate administrative regulations on acquisition. This administrative regulation governs the acquisition of land purchased, in whole or in part, with fund money.

Section 1. An applicant shall attempt to acquire:

- (1) Land at a price below its fair market value; and
- (2) Available matching funds for the purchase of land from a public or private entity.

Section 2. Transfer of Funds. An expenditure approved by the board shall be disbursed promptly after a Memorandum of Agreement has been signed by the grant applicant and the board and all procedures in 418 KAR 1:040 and in the application have been followed.

Section 3. Deadline for Acquisition. The project site shall be acquired within two (2) years of board approval of the acquisition. If the requirements of an agreed upon MOA required by 418 KAR 1:040, Section 3, have been met, then an extension may be granted by the board upon receipt of a written request for extension.

Section 4. Verification. (1) Within ninety (90) days of purchase, a recipient of fund money shall provide to the board, a copy of the recorded deed of conveyance for land acquired.

(2) The deed shall indicate:

- (a) That it has been filed of record in the courthouse of the county where the real estate is located; and
- (b) The amount of consideration paid for the real estate, in accordance with KRS 45.450.

Section 5. Deed Restriction. A state agency that has been awarded grant funds pursuant to KRS 146.570(4) shall include in all deeds conveying ownership of property to that agency, as grantee, the following language: "Grantor and grantee hereby acknowledge that a source of funding for the purchase of the property is the Kentucky Heritage Land Conservation Fund, and that as consideration for receiving said funding, Grantee, including its successors and assigns, is required to maintain the property in perpetuity in accordance with the purpose, intent and requirements of the Kentucky Heritage Land Conservation Fund set forth at KRS 146.570 and 418 KAR Chapter 1. Grantee, including its successors and assigns, further acknowledges that it is prohibited from selling, exchanging, encumbering or disposing of any interest in the property without the prior written consent of the Kentucky Heritage Land Conservation Fund, its successors and assigns, and the Kentucky Finance and Administration Cabinet, and that the Grantee, including its successors and assigns, shall ensure that any future owner of the property agrees in writing to be bound in perpetuity to the same restrictions and terms as stated herein."

Section 6. Conservation Easements. (1) A local government, state college, state university, or LTO that has been awarded grant funds pursuant to KRS 146.570(4)(f) shall convey to the Commonwealth of Kentucky a conservation easement in perpetuity over all land acquired, in whole or in part, with fund proceeds.

(a) This conveyance shall occur simultaneously with the conveyance of the property to the applicant.

(b) The conservation easement shall meet the requirements of KRS 382.800 through 382.860 and ensure that lands acquired are maintained in perpetuity for the purposes set out in KRS 146.560.

(2) Matching Funds. (a) No later than ninety (90) days after board approval of an application from an LTO, the applicant shall deposit into a non-lapsing escrow account the matching funds required by KRS 146.560(2)(d). The board shall deny a grant application submitted by an LTO if the LTO fails to deposit the matching funds required by KRS 146.560(2)(d).

(b) An LTO shall submit to the board for prior review and approval instructions for the disbursement from the escrow account, and shall ensure in writing that the escrow account remains open until all disbursements have been made.

(c) A final report detailing each disbursement from the account shall be provided to the board within sixty (60) days of the final disbursement. (21 Ky.R. 2854; eff. 7-12-95; Am. 25 Ky.R. 2944; 26 Ky.R. 594; eff. 9-8-99; TAm eff. 8-9-2007; 39 Ky.R. 850; 1200; 1395; eff. 2-1-2013; 40 Ky.R. 127; 592; 803; eff. 10-3-2013.)